IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 1797 of 2004

OM PRAKASH
V/S
SADDIQ & ORS

Mr. SK SANKHLA, for the appellant / petitioner

Date of Order : 3.1.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

By the impugned order, the learned Tribunal has dismissed the claim in view of finding on issue nos. 1 and 4, whereby it has been found that claimants have failed to prove that accident was caused by delinquent vehicle, rather it was found to be a case of "hit & run". Accordingly, a copy of order was forwarded to the Collector whereby a direction was given for payment of compensation payable in accordance with Sec. 161, 162, and 163 of the Motor Vehicles Act.

It is submitted by learned counsel for the appellant, that there is ample evidence on record to show that accident was caused by delinquent jeep, inasmuch as after the accident, the broken pieces of indicator were there at the spot, and the appellant had given out the description of the jeep, and description of the driver, on the basis of which, the jeep was tracked and found to be located at the petrol pump, and thus it was noticed that it was delinquent jeep which was being driven by driver of the defendant no.1, and therefore, the learned Tribunal was in error in dismissing the claim.

I have considered the submissions, and perused the impugned Judgment. The learned Tribunal in para no.12 has discussed the evidence in detail, and has noticed, that the story propounded is an after thought, inasmuch as, in Ex.A/2 there is no mention about the description of the driver, or the jeep being Commander jeep. Likewise,

the factum of broken pieces of indicator etc. are not mentioned in it.

It is also admitted position that no written report was given to the police. Likewise, from the perusal of Parcha Bayan Ex.A/1 it is clear that an unknown jeep came from Ramdeora and hit the motor-cycle, and jeep went away towards Phalodi. The number of jeep could not be identified due to night. Likewise, in the written statement, it is not mentioned that jeep was Commander jeep nor any description of jeep driver is mentioned. Then in Ex.3 & 4, broken indicator or the glasses have not been found on the spot. In these circumstances, the learned Tribunal has found that it has not been established that accident was caused by defendant no.1.

The learned counsel for the appellant has not been able to show as to how the appreciation of evidence made by learned Tribunal is wrong.

Thus, I do not find any sufficient ground to interfere with the impugned order. The appeal is, therefore, dismissed summarily.

(N P GUPTA),J.

/Srawat/